SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1903.

No. 414.

THE CITY OF COVINGTON, KY., AND JOHN N. MIDDENDORF, ASSESSOR OF THE CITY OF COVINGTON, KY.....Appellants,

vs.

THE FIRST NATIONAL BANK OF COVINGTON, KENTUCKY.....Defendants in Error.

No. 415.

FIRST NATIONAL BANK OF COVINGTON, KENTUCKY.....Appellant,

vs.

THE CITY OF COVINGTON, KY., AND JOHN N. MIDDENDORF, ASSESSOR OF THE CITY OF COVINGTON, KY.....Defendants in Error.

MOTION TO ADVANCE.

The City of Covington, Ky., and John N. Middendorf, Assessor, now come and move the court that the above styled causes be advanced for hearing at as early a date as may be convenient and proper under the rules of court.

The matter involved in said causes is the claim of the City of Covington, Ky., of the right to assess and collect city taxes from the First National Bank of Covington, Ky., under city ad valorem levies for the years 1893 and subsequent years.

The right to collect said taxes is claimed by said city under and by virtue of its charter (charter of cities of the second class in Kentucky) and a certain act of the Kentucky Legislature, approved on March 21st, 1900, which act is as follows:

CHAPTER 23.

AN ACT relating to the taxation of the shares of stock of national banks.

Whereas, The Supreme Court of the United States has lately decided that article three (3), chapter one hundred and three (103) of the acts eighteen hundred and ninety-one, eighteen hundred and ninety-two, eighteen hundred and ninety-three is void and of no effect in so far as the same provides for the taxation of the franchise of national banks, in consequence of which decision there is not now and has not been since adoption of said article in eighteen hundred and ninety-two, any adequate mode of taxing national banks, while State banks are now, and have been ever since eighteen hundred and ninety-two, taxable for all purposes, State and local; therefore,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

§ 1. That the shares of stock in each national bank of this State shall be subject to taxation for all State purposes, and shall be subject to taxation for the purposes of each county, city, town and taxing district in which the bank is located.

§ 2. For purposes of the taxation provided for by the next preceding section, it shall be the duty of the president and the cashier of the bank to list the said shares of stock with the assessing officers authorized to assess real estate for taxation, and the bank shall be and remain liable to the State, county, city, town and district for the taxes upon said shares of stock.

§ 3. When any of said shares of stock have not been listed for taxation for any of said purposes, under levy or levies of any year or years since the adoption of the revenue law of eighteen hundred and ninety-two, it shall be the duty of the president and cashier to list the same for taxation under said levy or levies; Provided, That where any national bank

has heretofore, for any year or years, paid taxes upon its franchise as provided in article three (3) of the revenue law of eighteen hundred and ninety-two, said bank shall be excepted from the operation of this section as to said year or years. And provided further, That where any national bank has heretofore, for any year or years, paid State taxes under the Hewitt bill in excess of the State taxes required by this act for the same year or years, said bank shall be entitled to credit by said excess upon its State taxes required by this act.

§ 4. All assessments of shares of stock contemplated by this act shall be entered upon the assessor's books, certified and reported by the assessing officers as assessments of real estate are entered, certified and reported, and the same shall be certified to the proper collecting officers for collection as assessments of real estate are certified for collection of taxes thereon.

§ 5. The assessments of said shares of stock and collection of taxes thereon, as contemplated by this act, may be enforced as assessments of real estate and collection of taxes thereon may be enforced.

§ 6. The purpose of this act is to place national banks of this State, with respect to taxation, upon the same footing as State banks as nearly as may be consistently with said article three (3) of the revenue law and said decision of the Supreme Court.

§ 7. Whereas, It is important that State banks and national banks should be taxed equally for all purposes, an emergency exists, and this act shall take effect and be in force from and after its passage.

Approved March 21, 1900.

Payment of said taxes is resisted by said Bank upon the ground, first, that said Act is in conflict with section 5219 of the Revised Statutes of the United States, and is unconstitutional; and second, that said Bank is protected by a certain adjudication from all taxation during its corporate existence, except that provided for by what is known as the Hewitt law—a revenue statute of Kentucky adopted in 1886.

The reasons for this application are:

1st.—That the matters involved are of great public interest to the State and taxpayers of Kentucky. It is important to all

the banks and other taxpayers of Kentucky that the law as to the taxation of the shares of stock in national banks should be speedily settled.

2d.—This is the second time that this case has been before this Court on appeal.

Wherefore, the City of Covington and John N. Middendorf, assessor, pray that these causes be advanced and heard at as early a date as may be convenient and proper under the rules of court.

F. J. HANLON, City Solicitor,

AND

W. H. JULIAN,

For said city and assessor.